

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JONATHAN K. GODINES,

Petitioner,

v.

ROBERT D. GILMORE, et al,

Respondents.

Civil Action No. 2:18-cv-410

Hon. William S. Stickman IV

ORDER OF COURT

Jonathan K. Godines (“Petitioner”) filed a pro se Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (ECF No. 5) attacking his state court conviction for third-degree murder. The case was referred to Magistrate Judge Maureen Kelly in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D. A stay was granted so Petitioner could exhaust his state court remedies relative to his second Post Conviction Relief Act Petition (“PCRA”). He was specifically directed to notify the Court within writing thirty (30) days after his second PCRA proceedings were concluded. (ECF No. 7). His proceedings concluded on June 28, 2019, and he failed to notify Magistrate Judge Kelly thirty days thereafter. On May 19, 2020, Magistrate Judge Kelly issued an Order to Show Cause. (ECF No. 8). Despite obtaining an extension of time, Petitioner failed to respond. On August 7, 2020, Magistrate Judge Kelly issued her Report and Recommendation stating that the case should be dismissed without prejudice for Petitioner’s failure to timely prosecute. (ECF No. 15). Petitioner was given until August 24, 2020 to file Objections. (ECF No. 15). No objections were filed.

Since Petitioner has lodged no objections, the Court will not disturb Magistrate Judge Kelly's conclusions in her Report and Recommendation. The Court ADOPTS the Report and Recommendation (ECF No. 15) as the Opinion of the Court. The record before the Court clearly demonstrates Magistrate Judge Kelly did not commit an error when she determined that the *Poulis*¹ factors were sufficiently met to justify dismissal of the case without prejudice. Petitioner failed to alert the Court after his state court remedies were exhausted and he failed to file a Response to the Show Cause Order despite obtaining an extension of time. The Court agrees with Magistrate Judge Kelly that "Petitioner alone is responsible for the delay of this case [...]." (ECF No. 15, p. 5). Furthermore, the Court agrees with Magistrate Judge Kelly's conclusion that the instant petition violates the AEDPA's one-year statute of limitations.

AND NOW, this 31 day of August 2020, IT IS HEREBY ORDERED that the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (ECF No. 5) is DIMISSED without prejudice due to Petitioner's failure to prosecute. A certificate of appealability is DENIED. IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

BY THE COURT:

A handwritten signature in black ink, appearing to read "W. S. Stickman IV", written over a horizontal line.

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE

¹ *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984).